APPENDIX

Revenue Act of 1926, c. 27, 44 Stat. 9:

SEC. 301. (a) In lieu of the tax imposed by Title III of the Revenue Act of 1924, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this act, whether a resident or nonresident of the United States;

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[Then follows a schedule of percentages, graduated according to the amount of the net estate.]

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(a) To the extent of the interest therein of the decedent at the time of his death;

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Revenue Act of 1932, c. 209, 47 Stat. 169:

SEC. 501. IMPOSITION OF TAX.

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the prop-

erty is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States. The tax shall not apply to a transfer made on or before the date of the enactment of this Act.

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SEC. 502. COMPUTATION OF TAX.

The tax for each calendar year shall be an amount equal to the excess of—

(1) a tax, computed in accordance with the Rate Schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) a tax, computed in accordance with the Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

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[Then follows schedule.]

SEC. 506. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

Treasury Regulations 79 (1936 Ed.), relating to gift tax under the Revenue Act of 1932, as amended:

ART. 19. *Valuation of property*—(1) *General.*—The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any

compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price or by an estimate of what a whole block or aggregate would fetch if placed upon the market at one and the same time. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered.

* * *

(3) *Stocks and bonds.*—The value at the date of the gift in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

The value of stocks and bonds listed upon a stock exchange shall be obtained by taking the mean between the highest and lowest quoted selling prices upon the date of the gift. If the gift was made on Sunday or on a legal holiday, the transactions of the next previous business day will govern. If there were no sales on the date of the gift, the value shall be determined by taking the mean between the highest and lowest sales upon the nearest date either before or after the date of the gift, if within a reasonable period thereof. If the security was listed upon more than one exchange, the records of the exchange where the security was principally dealt in should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

If the securities are not listed upon an exchange, but are dealt in through brokers, or have a market, the value should be determined by taking the mean between the highest and lowest selling prices as of the date of the gift, or, if there were no sale on that date, of the nearest date either before or after the date of the gift upon which sales were made, if within a reasonable period. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations, or evidence of sale, for inspection when the return is verified by an investigating officer.

If securities are quoted on a bona fide bid and asked basis, and actual sales are not available, the mean between the bid and asked prices on the date of the gift, or if not quoted as of the date of the gift, the mean between such prices on the nearest date thereto within a reasonable time, will be accepted as the value.

If the value of a security cannot be determined by sales, or from bid and asked prices, as prescribed in the preceding provisions of this subdivision, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth, earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock. Complete financial and other data upon

which the donor bases his valuation should be submitted with the return.

In exceptional cases in which it is established by clear and convincing evidence that the value per bond or share of any security determined upon the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, other relevant facts and elements of value will be considered in determining the fair market value. The size of the gift of any security is not a relevant factor and will not be considered in such determination.[12]

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Treasury Regulations 80 (1934 Ed.), promulgated under the Revenue Acts of 1926 and 1932, as amended:

ART. 13. *Valuations*—(1) *General.*—The value of all property includible in the gross estate is the fair market value thereof at the time of decedent's death. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The fair market value of a particular kind of property includible in the gross estate is not to be determined by a forced sale price or by an estimate of what a whole block or aggregate would fetch if placed upon the market at one and the same time. Such value is to be determined by ascertaining as a basis the fair market value at the time of the decedent's death of each unit

[12] This last sentence was dropped from the revision contained in T. D. 4901, 1939–1 Cum. Bull. 341, in which the substance of the other parts of the article quoted was restated in slightly different form.

of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the decedent's death should be considered in every case. * * *

(3) *Stocks and bonds.*—The value at the date of the decedent's death in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on the date of death.

The value of stocks and bonds listed upon a stock exchange shall be obtained by taking the mean between the highest and lowest quoted selling prices upon the date of death. If the decedent died on a Sunday or a legal holiday, the transactions of the next previous business day will govern. If there were no sales on the date of death, the value shall be determined by taking the mean between the highest and lowest sales upon the nearest date either before or after the date of death, if within a reasonable period thereof. If the security was listed upon more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the executor should observe care to consult accurate records to obtain values as of the date of death.

If the securities are not listed upon an exchange, but are dealt in through brokers, or have a market, the value shall be determined by taking the mean between the highest and lowest selling prices as of the date of death, or, if there were no sales on that

date, of the nearest date either before or after the date of death upon which sales were made, if within a reasonable period. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

In the case securities are quoted on a bona fide bid and asked basis, and actual sales are not available, the mean between the bid and asked prices as of the date of death, or the nearest date thereto if within a reasonable time thereof, will be accepted as the value.

In the case of the stock of a close corporation, the value shall be determined on the basis of the company's net worth, earning power, and dividend-paying capacity, and all other relevant factors bearing upon the value of the stock. Complete financial and other data upon which the estate bases its valuation should be submitted in duplicate with the return. In the case of the stock of other corporations where the shares are not quoted on a bona fide bid and asked basis and no bona fide sales thereof have been made within a reasonable time of the decedent's death, the value should be determined and supported in the manner indicated in this paragraph.

In the case of corporate or other bonds which are not quoted on a bona fide bid and asked basis and if no bona fide sales thereof have been made within a reasonable time of the decedent's death, the value is to be determined by giving consideration to the

soundness of the security, the interest yield, the date of maturity, and other relevant factors.

In exceptional cases in which it is established by clear and convincing evidence that the value per bond or share of any security determined upon the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, other relevant facts and elements of value will be considered in determining the fair market value. The size of holdings of any security to be included in the gross estate is not a relevant factor and will not be considered in such determination.[13]

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[13] This last sentence, which had also appeared in the 1937 Edition of Regulations 80 (in Art. 10 (c)), was dropped from the revision contained in T. D. 4902, 1939–1 Cum. Bull. 325, in which the substance of the other parts of the above-quoted article was restated in slightly different form.

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